

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

Case No.: 2:19-cr-00116-APG-NJK

4 Plaintiff

**Order Denying Motion for Judicial
Recommendation for Transfer to Home
Confinement**

5 v.

6 JAMES VERNON ROBERSON,

[ECF No. 31]

7 Defendant

8 On February 4, 2020, I sentenced defendant James Roberson to 23 months in custody,
9 concurrent with the sentence imposed in his state court case. His projected release date is May
10 20, 2021. ECF No. 31 at 2. He now requests that I recommend to the Bureau of Prisons (BoP)
11 that he be placed in home confinement for the remainder of his custodial sentence based on the
12 possibility he may come down with the COVID-19 virus. *Id.* The government takes no position
13 on the request.

14 Mr. Roberson is 44 years old, in good health (albeit overweight), and not in any of the
15 recognized risk groups. *Id.* at 10. There are no confirmed cases of COVID-19 at the Victorville
16 facility where he is incarcerated. *Id.* at 9. That is no guarantee that the facility will remain
17 COVID-19 free. But releasing Roberson to home confinement will not guarantee his safety
18 either, as his family members could bring the virus into his home through their daily activities.
19 If Roberson is entitled to this recommendation then every prisoner in the Victorville facility (and
20 likely most other BoP facilities) would be similarly entitled.

21 Mr. Roberson has a history of violence against his cohabitants, parole violations, and
22 failure to register. Those are poor indicators that he will comply with future directions to self-
23 isolate or remain on home detention if he is released. Further, transferring Mr. Roberson to

1 home detention could spread the virus further if he is carrying it. And transferring him to home
2 confinement would necessitate Probation Officers having increased contact with him and his
3 family, which exposes them to greater risks of infection.

4 The BoP has sole authority to designate the place of imprisonment and move inmates
5 around its system. 18 U.S.C. § 3621(b). While I can make a recommendation, the Bureau can
6 ignore it based upon the factors in § 3621(b). The Bureau is in a better position than I to
7 determine the appropriate place to house Mr. Roberson based on a variety of factors. I am loathe
8 to interfere with its decision-making in this instance.

9 I THEREFORE ORDER that Mr. Roberson's motion (**ECF No. 31**) is **denied**.

10 DATED this 5th day of June, 2020.

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13 ANDREW P. GORDON
14 UNITED STATES DISTRICT JUDGE
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